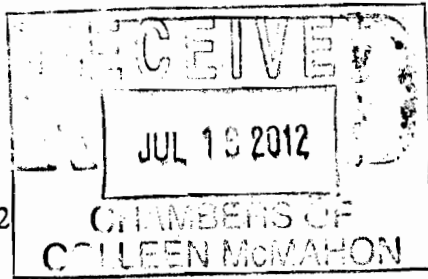
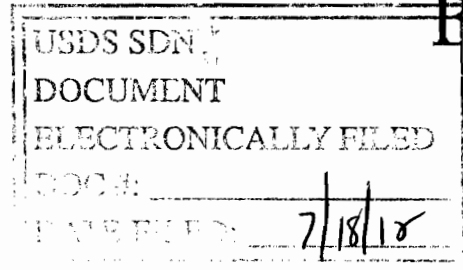


SD



July 13, 2012



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The Honorable Colleen McMahon
U.S. DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street, Room 14C
New York, NY 10007

7/18/2012

MEMO ENDORSED

*Decision pending.
Discovery & Stay
until
further
order
of the
Court*

Re: *Nirvana International, Inc. v. ADT Security Services, Inc.*
U.S. District Court, Southern District of New York Case No. 1:11-CV-8738

Dear Judge McMahon:

I represent ADT Security Services, Inc. in this matter. Nirvana's counsel sent you a letter this morning requesting an order referring this case to Magistrate Judge Frank Maas to supervise a discovery dispute between the parties. Rather than transferring the case to the Magistrate Judge, where the parties will address a costly and time-consuming discovery issue, ADT requests an Order staying the case until the Court has decided ADT's Motion to Dismiss.

ADT filed its Motion to Dismiss Nirvana's First Amended Complaint (Doc. 13) and Memorandum in Support (Doc. 14) on January 24, 2012. In its motion, ADT argued that Nirvana's claims for negligence, gross negligence, and forgery/fraud fail as a matter of law and that the parties' Small Business Contract limits Nirvana's recoverable damages to \$1,000. Nirvana opposed (Doc. 16) ADT's Motion to Dismiss on February 21, 2012 and ADT filed its Reply in Support (Doc. 18) on March 6, 2012. If the Court grants ADT's motion, then the parties' discovery dispute would become moot. Moreover, even if denied in part, the Court's ruling will impact the forthcoming discovery dispute, rendering it premature and unnecessarily burdensome in light of the dispositive issues before the Court. ADT therefore requests an order staying discovery until the Court has decided ADT's Motion to Dismiss so that the parties may potentially avoid costly and time-consuming discovery.

I have conferred with Nirvana's counsel, Mr. Rogin, regarding this request and he will not stipulate to a stay of discovery pending the resolution of ADT's Motion to Dismiss.

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July 13, 2012
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Sincerely,

A handwritten signature in black ink, appearing to read "AKK", is positioned above the printed name of the sender.

Aaron K. Kirkland

cc: Jonarhan Rogin (via e-mail)

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